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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,565	07/02/2001	Daniel Coffman	YOR9-1999-01	1503

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WOODBURY, NY 11797

EXAMINER
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BULLOCK JR, LEWIS ALEXANDER

ART UNIT	PAPER NUMBER
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2195

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/806,565

Applicant(s)

COFFMAN ET AL.

Examiner

Lewis A. Bullock, Jr.

Art Unit

2195

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 09 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 25-59 and 97-122.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).  
13. ☐ Other: \_\_\_\_\_.

  
LEWIS A. BULLOCK, JR.  
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicants arguments are unpersuasive. Applicant argues that Holm does not teach Applicants claimed kernel adapted to manage a dialog and context across one of platforms, applications, devices having different user interface modalities because Holm expressly teaches that the TTS system can only operate over different GUI based operating systems that provide a necessary graphical user interface and clipboard mechanism. In other words, Holm discloses a TTS system that only enable GUI based user interaction. The examiner disagrees. Applicants arguments appear to be directed toward the claimed managing of the dialogs between different user interface modalities. Applicant's specification details that system provides a universal coordinated multi-modal conversational user interface. The multi modality aspect of the CUI implies that various I/O resources such as voice, keyboard, pen and pointing device, keypads, touch screens, etc. can be used in conjunction with the CVM platform....In other words, universality implies that the CVM system can appropriately handle the UI of devices with capabilities ranging from speech only to speech to multimodal, i.e. speech + GUI, to purely GUI (pg. 12, lines 5-17). Therefore, a modality as disclosed in Applicant includes a GUI modality. Applicant's claims the coordination of dialogs from different modalities, however, there is no claimed limitation of how the modalities are different. Applicant's specification also details that the although illustrative embodiments have been described, it is understood that the present system and method is not limited to those precise embodiments, and that various other changes and modifications may be affected therein by one skilled in the art without departing from the scope or spirit of the invention (pg. 63, lines 26-31). The spirit of the invention is to coordinate the dialog among a plurality of modalities. One of ordinary skill in the art would define "different" as distinct; not the same; partly or totally unlike in nature, form, or quality (Websters Dictionary). Applicant seems to imply that different is different types. Hence, one modality (speech) is a different type than the other (GUI). In regards to this definition, the Examiner would agree that the modalities are not different types. However, this definition is not disclosed in the claims. The claims only detail that there is some discernable difference from one modality to the other. This discernable difference does not have to be the difference in type as Applicant is alleging. Holm teaches a plurality of client processes, i.e. transport control process, the dialog box control process, and the dictionary editor processor, of the application that is used to input queries or events for a particular function (col. 9, lines 11-58) to the controller or kernel DLL. These processes function or control functions that are different from one another due to the fact that they are handled by different processes. Therefore, the processes, i.e. the GUI modality processes, are different and meet the limitations of the claims. Applicant then argued that the Examiner has instead, offered a strained interpretation to fit the teachings of Holm and that it is axiomatic that when evaluating claims, the Examiner must interpret the claims with the broadest reasonable interpretation that is consistent with the specification and the Examiner cannot interpret the claim language in a vacuum, but rather the claims should be interpreted in view of the specification as it would be interpreted by one of ordinary skill in the art. The examiner agrees in part. Applicant is correct in that the Examiner must interpret the claims with the broadest reasonable interpretation that is consistent with the specification. However, M.P.E.P. 2111.01 states that claims must be interpreted as broadly as their terms reasonably allow. In re Vogel, states that it is only when the specification provides definitions for terms appearing in the claims that the specification can be used in interpreting claim language. Superguide Corp v DirecTV Enterprises, Inc. states that "though understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim. For example a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment. See also E-Pass Techs., Inc. v. 3Com Corp., M.P.E.P. 2111. There is no express definition of different in the specification. In addition, Applicant is importing the limitation of different types of modalities in interpreting different user interface modalities all of which is impermissible as detailed above. The examiner has explained above how the limitation is broadly met by the teachings of Holm and therefore maintains the rejection as disclosed above.